Hazardous Materials Information Review Commission

2010-2011

Report on Plans and Priorities

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Minister of Health
Government of Canada

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President's Message

As President and Chief Executive Officer of the Hazardous Materials Information Review Commission (HMIRC), I am pleased to submit to Parliament, and to Canadians, the Commission's 2010-2011 Report on Plans and Priorities. This report outlines our goals and objectives for the next three years in support of improved worker health and safety and the protection of the chemical industry's trade secrets within the Workplace Hazardous Materials Information System (WHMIS). Through innovation and streamlining, the Commission will be able to exploit its knowledge and expertise in the field of hazard classification and communication in the Canadian workplace to the benefit of all stakeholders.

Following up on our legislative renewal, HMIRC will continue to review and revise the claims exemption process in order to provide an effective and efficient service. This will involve enhancements to client support services, such as tools to boost proactive compliance in the preparation of hazard communication and to assist in the future implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). As well, the three-year claims backlog elimination plan is on target and new procedures and instruments are in place to ensure future workload capacity.

HMIRC will also explore ways to increase the organization, translation and dissemination of its scientific knowledge at the national and international levels and across industry and labour. This will include a better understanding and identification of methods to improve the quality of Material Safety Data Sheets (MSDSs), the development of more preventive and educational approaches to effective hazard communication, and partnerships with key organizations. The Commission will continue to participate in discussions on the implementation of GHS in Canada as well as on changes to the *Hazardous Products Act* and *Controlled Products Regulations*.

With the support of the Council of Governors, the Commission has embarked on the development and implementation of an integrated plan which will align strategic and operational objectives across the organization. A logic model and an evaluation framework will also be put in place. These activities will sustain the management and accountability of the HMIRC's resources and our commitment to Treasury Board's Management Accountability Framework. The resultant organizational coherence will facilitate the fulfilment of the Commission's mandate and the achievement of its strategic outcome.

I very much appreciate the ongoing commitment and hard work of Council and the Commission staff with respect to our current activities and future endeavours. I look forward to building on our success in contributing to strengthening WHMIS in the workplace and supporting Canadian industry.

Sharon Watts
President and Chief Executive Officer

Section I: Commission Overview

Raison d'être

The Hazardous Materials Information Review Commission provides a single mechanism under federal, provincial and territorial legislation to protect the trade secrets of companies that supply or use hazardous materials, and ensures that Canadian workers who handle such materials have all the information they need to do so safely.

Mandate

The *Hazardous Materials Information Review Act* mandates the Commission to:

- Register claims for trade secret exemptions and issue registry numbers;
- Issue decisions on the validity of claims for exemption on the basis of prescribed regulatory criteria;
- Make decisions on the compliance of Material Safety Data Sheets (MSDSs) and labels with Workplace Hazardous Materials Information System (WHMIS) requirements;
- Convene independent boards to hear appeals from claimants or affected parties.

Responsibilities

The Commission enables companies to protect their trade secrets and, at the same time, ensures that MSDSs for products with trade secrets used by workers in Canada disclose complete and accurate information to reduce workplace-related illness and injury. The Commission's activities are key components of WHMIS, which was created in 1987 through a consensus of labour, industry and government. The success of WHMIS depends on cooperation among all these partners. All three groups play an integral part in ensuring that chemical products are used as safely as possible in Canadian workplaces.

WHMIS requires that suppliers provide employers with information on the hazards of materials sold for use in Canadian workplaces. The employers, in turn, provide that information to workers through product labels, worker education programs, and MSDSs. A product's MSDS must fully disclose all hazardous ingredients in the product, its toxicological properties, the safety precautions workers need to take when using the product, treatment required in the case of injury, and other pertinent information.

When a supplier introduces a product and wants to protect the identity of one or more of the hazardous ingredients or the concentration, the company needs to apply to HMIRC for an exemption from the requirement to list all hazardous ingredients on the product's MSDS. When HMIRC receives a complete application, HMIRC registers the claim and the product can be made available in the marketplace without disclosing the confidential business information. The Commission then evaluates the claim and issues a decision on its validity and, to protect workers, verifies the compliance of the MSDS with the

Hazardous Products Act and *Controlled Products Regulations.* Where areas of non-compliance are identified, claimants are given two options to comply under the *Hazardous Materials Information Review Act*. First, the Commission offers voluntary compliance undertakings through which to make corrections. If the claimant chooses not to accept the undertaking the Commission issues formal orders obligating the claimant to make the changes.

When an employer purchases a product and wants to protect the identity and/or concentration of any hazardous ingredients, or the name and the supplier of the product, the company also needs to apply to HMIRC for an exemption. In this case the Commission evaluates the MSDS and if necessary, the label, against the requirements of either the *Canada Labour Code* , for federally regulated employers, or the relevant provincial or territorial occupational health and safety regulations.
In cases where there are disputes that can not be resolved, HMIRC convenes independent boards to hear appeals from claimants or affected parties challenging decisions and orders or from affected parties challenging undertakings signed by claimants and accepted by HMIRC.

In addition, HMIRC responds to requests from federal, provincial or territorial government health and safety officials for information about claims for exemption to help these officials administer and enforce their WHMIS obligations.

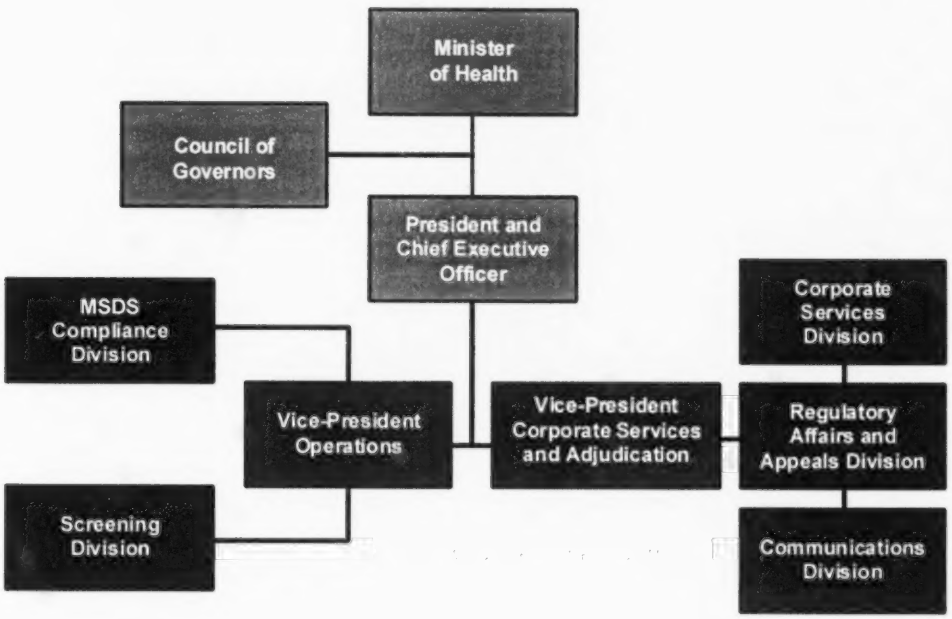
Cooperative partnerships

Governance Structure

The Commission's governance structure is a model of collaboration between government, industry and labour. The Council of Governors provides strategic advice and guidance to the Commission and makes recommendations to the Minister of Health. It consists of up to 18 members representing key stakeholders across all jurisdictions:

2 representing workers,
1 representing suppliers,
1 representing employers,
1 representing the federal government, and
Up to 13 representing the provincial and territorial governments.

The Commission's President and Chief Executive Officer is appointed by the Governor in Council and has the authority to supervise and direct the organization's day-to-day activities.
The Vice-President of Operations directs the work of the MSDS Compliance and Screening divisions.
The Vice-President of Corporate Services and Adjudication directs the work of the Corporate Services, Regulatory Affairs and Appeals, and Communications divisions.



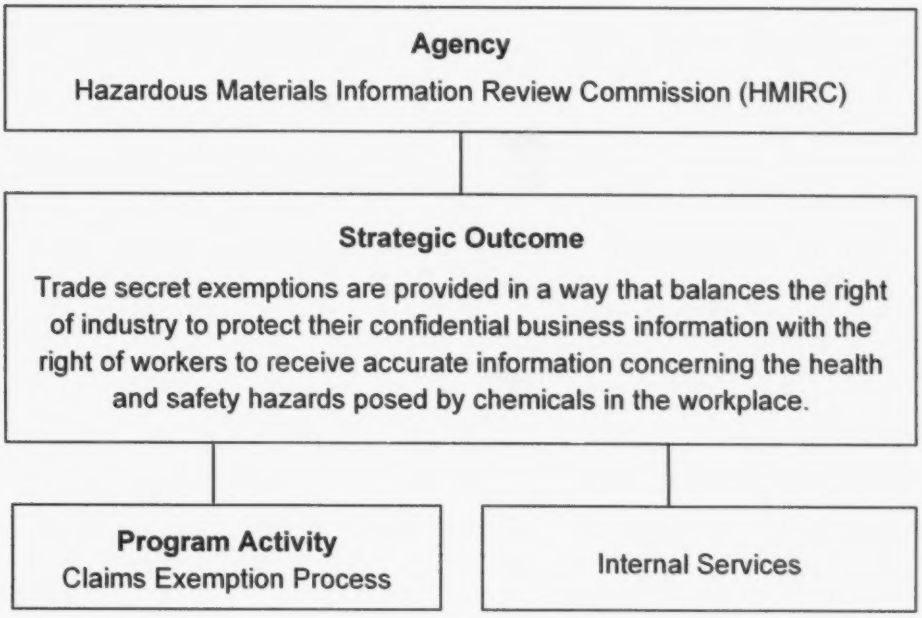
Values and Operating Principles

The Commission recognizes that continuous improvement is critical in order to remain relevant and to provide effective and efficient performance and service quality. HMIRC has identified the values and operating principles that foster continuous improvement in its operations. These are: ***FAIRNESS, TIMELINESS, ACCESSIBILITY, TRANSPARENCY, ACCOUNTABILITY, QUALITY, CONSISTENCY, COMPETENCY, RESPECT, SECURITY*** and ***CONFIDENTIALITY*** .

The Commission's values and operating principles are aligned with and uphold the values of the Public Service as expressed in the Values and Ethics Code:

http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/tb_851/vec-cve1-eng.asp#_Toc46202800

Strategic Outcome and Program Activity Architecture (PAA)


Agency
Hazardous Materials Information Review Commission (HMIRC)
Strategic Outcome
Trade secret exemptions are provided in a way that balances the right of industry to protect their confidential business information with the right of workers to receive accurate information concerning the health and safety hazards posed by chemicals in the workplace.
Program Activity
Claims Exemption Process
Internal Services

Planning Summary

Financial Resources ($thousands)

2010-11	2011-12	2012-13
5,704	4,545	4,545

Human Resources (Full-time Equivalent – FTE)

2010-11	2011-12	2012-13
54	42	42

Strategic Outcome 1: Trade secret exemptions are provided in a way that balances the right of industry to protect their confidential business information with the right of workers to receive accurate information concerning the health and safety hazards posed by chemicals in the workplace.[1]	
Performance Indicators	**Targets**
Number of appeals as a percentage of total claims processed	Zero

Program Activity	**Forecast Spending 2009–10**	**Planned Spending**			**Alignment to Government of Canada Outcomes**
		2010–11	**2011–12**	**2012–13**	
Claims Exemption Process	5,786	4,232	3,090	3,090	Healthy Canadians
Internal Services	-	1,472	1,455	1,455	
Total Planned Spending		5,704	4,545	4,545	

[1] As indicated in discussions with TBS, the Commission will undertake a review of its Strategic Outcome (SO) and Program Activity (PA), including expected results, performance indicators, and targets, to ensure that the SO and PA support the strategic direction established by the 2009-2012 Strategic Plan.

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Links to Strategic Outcome	Description
Priority 1: Enhanced approach to support proactive compliance	Ongoing	Strategic Outcome 1	The Commission will continue to enhance compliance support to claimants, particularly in the area of MSDSs and product labels. The Commission will continue to review its claims process and to identify innovative and efficient ways to improve it. Tools will be developed or revised to provide better information and guidance to claimants regarding hazard classification and communication.
Priority 2: Improved knowledge translation to support hazard classification and communication	Ongoing	Strategic Outcome 1	HMIRC will contribute knowledge and expertise acquired from its organizational experiences to stakeholder discussions on improving hazard classification and communications systems in Canada. The Commission will acquire knowledge and expertise on the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) in order to be in an optimal position to support claimants to attain higher MSDS compliance as a result of the changes brought about by Canada's response to the GHS. This will also support proactive compliance. The Commission will explore educational, preventive and interactive approaches in its work to promote hazard communication.
Priority 3: Increased partnerships to better address hazard communication challenges	Previously committed to	Strategic Outcome 1	HMIRC will maintain its tripartite collaboration with federal, provincial and territorial government bodies, industry, and labour. It will identify new opportunities for partnerships with key stakeholders.

Management Priorities	Type	Links to Strategic Outcome	Description
Priority 4: Organizational cohesion and coherence	New	Strategic Outcome 1	The Commission will continue the design and implementation of an integrated planning process which will enable it to incorporate and align organization-wide and unit-specific planning efforts in order to maximize its desired impact. The integrated plan consists of strategic directions developed with and approved by the Council of Governors and presented to HMIRC staff, an operational plan which supports the strategic directions, an evaluation framework to evaluate the results of activities and other enablers, such as an HR Strategy to ensure the proper resources are in place to attain the desired strategic outcomes.

Risk Analysis

Operational Context

Labour, industry and government agree on the importance of preventing illnesses and injuries from hazardous materials in Canadian workplaces. In order to help achieve this goal WHMIS was created through the adoption of laws and regulations and the development of procedures in the late 1980s. WHMIS requires suppliers, including manufacturers, importers and distributors, and employers, to provide health and safety information about the chemicals produced or used in Canadian workplaces.

As part of the WHMIS initiative, the *Hazardous Material Information Review Act* and its regulations also came into force. This legislation established the Hazardous Materials Information Review Commission (HMIRC), an independent agency with a quasi-judicial role. The Commission provides the mechanism in Canada to protect the confidential business information of chemical suppliers and employers and to ensure accurate and complete health and safety information is available to workers.

Risks and Opportunities

The Commission's commitment to occupational health and safety is the impetus for initiatives such as the Backlog Elimination Plan and the handling of priority claims identified by their potential hazards. The backlog is expected to be eliminated by the end of 2010-2011.

While acknowledging an improvement in compliance, ongoing and innovative effort will be made to reduce the percentage of MSDS violations; however, consultations with stakeholders suggest that the levels of violations (i.e., non-compliance) in MSDSs that do not contain trade secrets and therefore are not reviewed by the Commission could be quite high, although evidence is lacking to support this assessment.

The approaching implementation of GHS in Canada will impact hazard communication across WHMIS, including HMIRC. In order to contribute to the transmission of accurate and consistent information, the organization will need to continue to augment its knowledge base, participate in implementation discussions and keep informed of national and international developments. The Commission has a role to play in keeping its stakeholders aware of GHS implications.

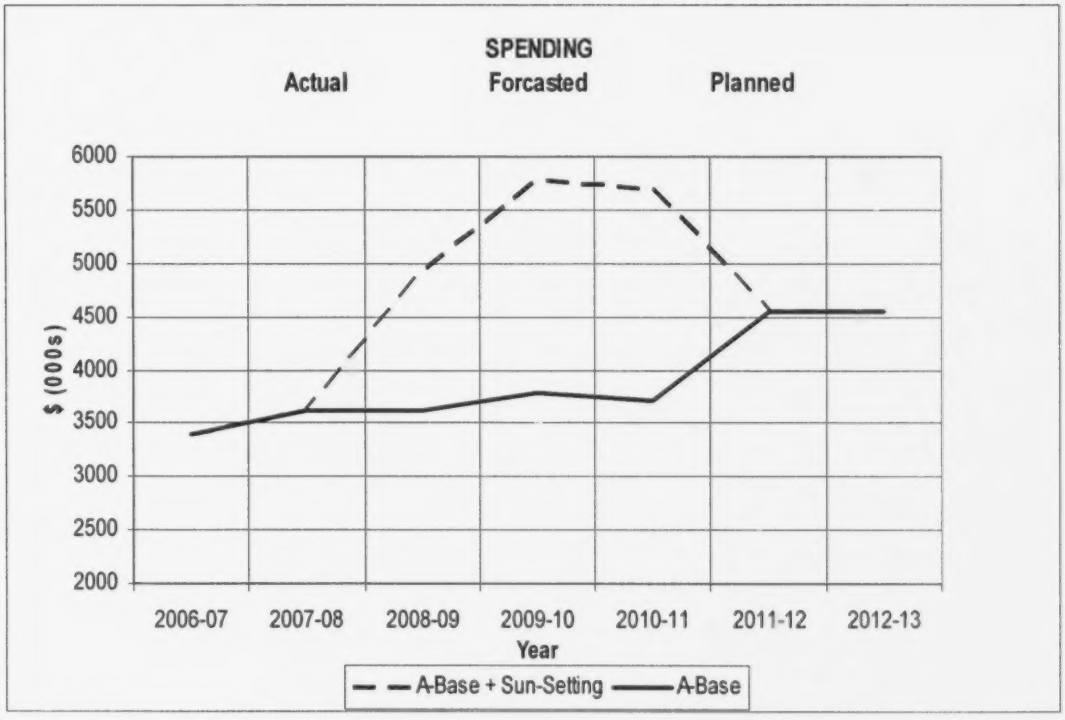
The Commission is currently involved in developing an integrated plan. It has sought the input and approval of the Council of Governors and consultation with HMIRC staff. It will be up to management to carefully apply the Commission's modest resources to achieve a coherent alignment of corporate and operational objectives. This will help address persistent challenges such as the recruitment and retention of scientific staff. Ultimately, this exercise will strengthen service and accountability.

Expenditure Profile

In 2007-08, HMIRC developed a plan to eliminate its backlog of claims for exemption over a three year period (2008-2011) and to prevent it from recurring. However, due to its very small A-Base, which in fiscal year 2007-2008 totaled $3.5 M, the Commission sought supplementary funding for each of the three years, as well as ongoing funding, for 2011-2012 and beyond, to implement the plan.

In January 2008, Health Canada (HC) and HMIRC, in consultation with the Treasury Board Secretariat, and with concurrence of the Minister of Health, agreed that Health Canada would transfer $1.7 M to HMIRC to begin the work required to address the backlog through the 2008-2009 Supplementary Estimates A. The Annual Reference Level Update was identified as the appropriate mechanism for transferring supplementary funding of $2 M each year for 2009-2010 and 2010-2011, as well as $850K for 2011-2012 and ongoing.

The figure below illustrates HMIRC's actual spending from 2006-2007 to 2008-2009, forecast spending in 2009-2010, planned spending in 2010-2011 to 2012-2013, and the sunsetting of funding to address the claims backlog.



Voted and Statutory Items

($ thousands)

Vote # or Item (S Statutory)	Truncated Vote or Statutory Wording	2009–10	2010–11
30	Program expenditures	4,855	4,980
(S)	Contributions to employee benefit plans	700	724
TOTAL		5,555	5,704

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

Program Activity by Strategic Outcome

Program Activity : Claims Exemption Process[2]					
Human Resources (FTEs) and Planned Spending (000s)					
2010–11		2011–12		2012–13	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
39	4,232	27	3,090	27	3,090

Program Activity Expected Results	Performance Indicators	Targets
Claimants are able to sell their products without disclosing confidential business information within an appropriate amount of time	Percentage of claims registered within 7 days	100%
Workers are provided with corrected health and safety information within an appropriate amount of time	Percentage of claims for which the elapsed time between the registration of the claim and the issuance of the decision is within the target period	90% within 365 days
Disputes are resolved prior to appeal	Percentage of disputes resolved prior to appeal	100%

Program Activity Summary:

Under this activity the Hazardous Materials Information Review Commission registers claims for exemption received from a supplier or employer who wishes to withhold confidential business information; decides on the validity of the claim and the associated

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[2] As indicated in discussions with TBS, the Commission will undertake a review of its Strategic Outcome (SO) and Program Activity (PA), including expected results, performance indicators, and targets, to ensure that the SO and PA support the strategic direction established by the 2009-2012 Strategic Plan.

health and safety information (material safety data sheet [MSDS] or label); and administers an appeal process for these decisions.

Planning Highlights:

1. To continue to reduce/eliminate the remaining backlog of claims. The Backlog Elimination Plan is on target and it is expected to be completed by the end of fiscal year 2010-2011.

2. To participate in discussions on changes to the Hazardous Products Act/Controlled Products Regulations, especially with regard to GHS.

3. To contribute HMIRC's knowledge and expertise to discussions on improving hazard classification and communication systems in Canada and support proactive compliance.

4. To develop a plan to explore new partnership opportunities with key stakeholders.

Internal Services					
Human Resources (FTEs) and Planned Spending (000s)					
2010–11		**2011–12**		**2012–13**	
FTEs	**Planned Spending**	**FTEs**	**Planned Spending**	**FTEs**	**Planned Spending**
15	1,472	15	1,455	15	1,455

Internal Services Summary:

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. At HMIRC these groups are: Management and Oversight Services; Communications Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

Planning Highlights:

1. To produce an Integrated Plan to align strategic objectives with operational activities, to define the organizational implications, and to improve internal and external coordination.

2. To develop an evaluation framework to strengthen the organization's effectiveness and accountability.

3. To develop a Human Resources Strategy.

4. To make HMIRC a workplace of choice by examining issues and recommending improvements.

5. To continue implementation of the Chief Financial Officer model in accordance with the *Policy on Financial Management Governance*. These changes will improve senior management decision-making support and enhance oversight for the Commission's activities.

Benefits for Canadians

Canada's public health system exists to safeguard and improve the health of Canadians. The responsibility for public health is spread across the federal, provincial and territorial governments. Occupational health and safety programs, including WHMIS, are an essential part of the Canadian public health system. As part of WHMIS, the Commission provides the trade secret exemption mechanism on behalf of the federal, provincial and territorial governments, including the promotion of improved occupational health and safety for Canadian workers. It does this by assessing and addressing the hazards of chemical use in the workplace, by innovation in translating its knowledge of hazard classification and communication, by ensuring compliance with public standards across jurisdictions, and by fostering mutual support and cooperation among key stakeholders. Through these activities HMIRC promotes public goods[3] and contributes to the achievement of the Government of Canada strategic outcome of "Healthy Canadians".

The Commission's work also supports the Government of Canada's strategic outcome of a "Fair and Secure Marketplace". This outcome ensures the marketplace continues to foster competitive conditions in order to attract investment, encourage innovation, and protect the public interest. The Commission enhances competition by protecting trade secrets in the chemical industry.

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[3] Public goods are generally considered to be fundamental values of government organizations. The public goods promoted by HMIRC are: public health and safety, autonomy of citizens, property rights, and economic growth and prosperity.

Section III: Supplementary Information

Supplementary Information Tables

Supplementary Information Table *Sources of Respendable and Non-Respendable Revenue* can be found electronically on the Treasury Board of Canada Secretariat's website at: *http://www.tbs-sct.gc.ca/rpp/2010-2011/info/info-eng.asp*.

Other Items of Interest

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